

Senate Engrossed House Bill

FILED

KEN BENNETT

SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
First Regular Session
2011

CHAPTER 193

HOUSE BILL 2151

AN ACT

AMENDING SECTIONS 23-350 AND 23-351, ARIZONA REVISED STATUTES; RELATING TO
PAYMENT OF WAGES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 23-350, Arizona Revised Statutes, is amended to
3 read:

4 23-350. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Department" means the labor department of the industrial
7 commission of Arizona.

8 2. "Employee" means any person who performs services for an employer
9 under a contract of employment either made in this state or to be performed
10 wholly or partly within this state.

11 3. "Employer" means any individual, partnership, association, joint
12 stock company, trust, corporation, the administrator or executor of the
13 estate of a deceased individual or the receiver, trustee or successor of any
14 of such persons employing any person. Employer also includes this state and
15 any county, municipality, school district or other political subdivision of
16 this state.

17 4. "Hours worked" includes all time an employee is employed.

18 5. "PAYROLL CARD ACCOUNT" MEANS AN ACCOUNT THAT IS DIRECTLY OR
19 INDIRECTLY ESTABLISHED THROUGH AN EMPLOYER AND TO WHICH ELECTRONIC FUND
20 TRANSFERS OF AN EMPLOYEE'S WAGES ARE MADE ON A RECURRING BASIS WHETHER THE
21 ACCOUNT IS OPERATED OR MANAGED BY THE EMPLOYER, A THIRD-PARTY PAYROLL
22 PROCESSOR, A DEPOSITORY INSTITUTION OR ANY OTHER PERSON.

23 ~~5-~~ 6. "Wages" means nondiscretionary compensation due an employee in
24 return for labor or services rendered by an employee for which the employee
25 has a reasonable expectation to be paid whether determined by a time, task,
26 piece, commission or other method of calculation. Wages include sick pay,
27 vacation pay, severance pay, commissions, bonuses and other amounts promised
28 when the employer has a policy or a practice of making such payments.

29 Sec. 2. Section 23-351, Arizona Revised Statutes, is amended to read:

30 23-351. Designation of paydays for employees: payment;
31 exceptions; state employees violation; classification

32 A. Each employer in this state shall designate two or more days in
33 each month, not more than sixteen days apart, as fixed paydays for payment of
34 wages to the employees.

35 B. Notwithstanding the provisions of subsection A, each employer in
36 this state whose principal place of business is located outside the state of
37 Arizona and whose payroll system is centralized outside the state of Arizona
38 may designate one or more days in each month as fixed paydays for payment of
39 wages to the following employees:

40 1. Professional, administrative or executive employees or employees
41 employed in the capacity of an outside salesman as those terms are defined
42 under the fair labor standards act of 1938, as amended.

43 2. Employees employed in a supervisory capacity as defined under the
44 national labor relations act.

1 C. Each employer shall, on each of the regular paydays, pay to the
2 employees, ~~in lawful money of the United States, or in negotiable bank checks~~
3 ~~or, in the case of the state or any political subdivision thereof, warrants~~
4 ~~payable on demand and bearing even date with the payday or, with the written~~
5 ~~consent of the employee, by deposit on the payday to the employee's credit at~~
6 ~~a financial institution of the employee's choice which is a member of the~~
7 ~~federal deposit insurance corporation or of any other comparable federal or~~
8 ~~state agency,~~ all wages due the employees up to such date, except:

9 1. In the case of employees remaining in the service of any such
10 employer, with the exception of school district employees, all wages other
11 than overtime or exception pay not to exceed five days of labor may be
12 withheld. School districts may withhold wages during their normal two week
13 payroll processing cycle. An employer other than a school district may
14 satisfy the requirements of this paragraph by any of the following:

15 (a) Personally delivering the wages to the employee no later than five
16 BUSINESS days after the end of the most recent pay period.

17 (b) Depositing the wages in the United States mail no later than five
18 BUSINESS days after the end of the most recent pay period for delivery to an
19 address specified by the employee.

20 (c) Personally delivering the wages to the employee no later than ten
21 days after the end of the most recent pay period for an employer whose
22 payroll system is centralized outside the state of Arizona.

23 2. In the case of employees of school districts or of the Arizona
24 state school SCHOOLS for the deaf and the blind, the annual salary may be
25 prorated in any number of payments, and the employee may select whether to
26 have the salary prorated or paid during the actual months worked. If the
27 employee's salary is prorated, all such payments still due at the close of
28 the school attendance year or fiscal year may at the option of the employee
29 be paid in either a lump sum or paid within a period of two months after the
30 close of the fiscal year.

31 3. Overtime or exception pay shall be paid no later than sixteen days
32 after the end of the most recent pay period.

33 D. AN EMPLOYER MAY CHOOSE ONE OF THE FOLLOWING METHODS TO PAY WAGES TO
34 EMPLOYEES UNDER SUBSECTION A:

35 1. IN LAWFUL CURRENCY OF THE UNITED STATES.

36 2. IN NEGOTIABLE BANK CHECKS.

37 3. IN THE CASE OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS
38 STATE, WARRANTS PAYABLE ON DEMAND AND BEARING EVEN DATE WITH THE PAYDAY.

39 4. WITH THE WRITTEN CONSENT OF THE EMPLOYEE, BY DEPOSIT ON THE PAYDAY
40 TO THE EMPLOYEE'S CREDIT AT A FINANCIAL INSTITUTION OF THE EMPLOYEE'S CHOICE
41 THAT IS A MEMBER OF THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER
42 COMPARABLE FEDERAL OR STATE AGENCY.

43 5. IF THE EMPLOYER HAS OFFERED DEPOSIT ON THE PAYDAY TO THE EMPLOYEE'S
44 CREDIT AT A FINANCIAL INSTITUTION OF THE EMPLOYEE'S CHOICE THAT IS A MEMBER
45 OF THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER COMPARABLE FEDERAL

1 OR STATE AGENCY AND THE EMPLOYEE DOES NOT PROVIDE CONSENT AND DOES NOT
2 DESIGNATE A FINANCIAL INSTITUTION, BY DEPOSIT ON THE PAYDAY TO THE EMPLOYEE'S
3 CREDIT TO A PAYROLL CARD ACCOUNT.

4 ~~D.~~ E. When an employee's wages are paid by deposit in a financial
5 institution he THE EMPLOYEE shall be furnished with a WRITTEN OR ELECTRONIC
6 statement of his THE EMPLOYEE'S earnings and withholdings. Any wage deposit
7 plan adopted by an employer shall entitle the employee to one withdrawal for
8 each deposit, free of any service charge to the employee. The consent of an
9 employee for payment of wage by deposit IN A FINANCIAL INSTITUTION shall not
10 constitute a prior assignment of wages to the financial institution and is
11 revocable at any time prior to the transmittal to the financial institution
12 by the employer. No person shall be denied employment nor discharged OR
13 REPRIMANDED for refusal to consent to payment of wage by deposit in a
14 financial institution.

15 F. WHEN AN EMPLOYEE'S WAGES ARE PAID TO A PAYROLL CARD ACCOUNT THE
16 EMPLOYEE SHALL BE FURNISHED WITH A WRITTEN OR ELECTRONIC STATEMENT OF THE
17 EMPLOYEE'S EARNINGS AND WITHHOLDINGS. A PAYROLL CARD ACCOUNT PLAN ADOPTED BY
18 AN EMPLOYER SHALL ENTITLE THE EMPLOYEE TO ONE FREE WITHDRAWAL FOR EACH
19 DEPOSIT OF WAGES PER PAY PERIOD BUT NOT MORE FREQUENTLY THAN ONCE PER WEEK.
20 AN EMPLOYER SHALL ALSO PROVIDE A LIST OF ALL FEES ASSOCIATED WITH THE USE OF
21 AN EMPLOYER PROVIDED PAYROLL CARD ACCOUNT TO AN EMPLOYEE WHO RECEIVES WAGES
22 BY DEPOSIT TO A PAYROLL CARD ACCOUNT.

23 ~~E.~~ G. Subsection B shall not apply to employees whose salaries are
24 subject to provisions of collective bargaining agreements.

25 H. EACH EMPLOYER IN THIS STATE, IN ITS DISCRETION, MAY PAY ALL WAGES
26 DUE AN EMPLOYEE BY DEPOSIT ON THE PAYDAY AT A FINANCIAL INSTITUTION OF THE
27 EMPLOYEE'S CHOICE OR, IF THE EMPLOYEE DOES NOT DESIGNATE A FINANCIAL
28 INSTITUTION, TO A PAYROLL CARD. FOR THE PURPOSES OF THIS SUBSECTION,
29 "FINANCIAL INSTITUTION" MEANS A MEMBER OF THE FEDERAL DEPOSIT INSURANCE
30 CORPORATION OR OF ANY OTHER COMPARABLE FEDERAL OR STATE AGENCY.

31 ~~F.~~ I. Any employer who violates a provision of this section is guilty
32 of a petty offense.

APPROVED BY THE GOVERNOR APRIL 19, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2011.

Passed the House February 28, 20 11

by the following vote: 55 Ayes,

3 Nays, 2 Not Voting

[Signature]
Speaker of the House

Pro Tempore

Cheryl Laube
Chief Clerk of the House

Passed the Senate April 11, 20 11

by the following vote: 27 Ayes,

[Signature] Nays, 3 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

 day of , 20

at o'clock M.

Secretary to the Governor

Approved this day of

at o'clock M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this day of , 20

at o'clock M.

Secretary of State

H.B. 2151

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 13, 2011,

by the following vote: 46 Ayes,

11 Nays, 3 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14 day of April, 2011,

at 8:32 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 19th day of

April, 2011,

at 4:05 o'clock P. M.

[Signature]
Governor of Arizona

H.B. 2151

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19th day of April, 2011,

at 5:43 o'clock P. M.

[Signature]
Secretary of State